Arocha, Jr. v. Blackman, 2023 WL 6626111 (D. Mont., Oct. 11, 2023).

- **Holding**: The Blackfeet Tribe was not entitled to judgment on the pleadings for writ of habeas corpus filed by prisoner sentenced by Tribal Court to serve two additional consecutive sentences following release from federal incarceration for offenses arising from the same conduct, given that the writ stated a plausible claim that the sentences were improper under 25 U.S.C. § 1302(c)(3), which requires effective assistance of counsel for sentences exceeding one year and a tribal judge that is licensed to practice law and has sufficient legal training to preside over criminal proceedings.
- **Summary**: Following a fatal stabbing in East Glacier, Montana, Arocha was convicted of in federal court of voluntary manslaughter and sentenced to 56 months of incarceration in a federal prison. Arocha was also convicted following a jury trial in Blackfeet Tribal Court of one count of assault for the same altercation and one count of criminal endangerment, and sentenced to one year incarceration and a $500.00 fine on count 1, and nine months incarceration and a $1,000 fine on count 2, with the sentences to run consecutively. Arocha was not present for the trial before the Tribal Court or for the initial sentencing, but was present at a re-sentencing hearing at which the identical sentence was imposed.

  Arocha filed a petition for habeas corpus by an Indian person in tribal custody, pursuant to 25 U.S.C. § 1303, part of the Indian Civil Rights Acts ("ICRA"), which extends the writ of habeas corpus to any person to challenge the legality of their detention by order of an Indian tribe.

  The court first determined that the federal court in Montana had jurisdiction over the petition, despite the fact that Arocha was imprisoned in Oklahoma at the time of the petition, since Arocha was being held on the authority of the Blackfeet Tribal Court. Likewise, the petition was properly directed to the Blackfeet Tribe, not the warden of the prison where Arocha was being held, since it was the Tribe that exercised legal control with respect to the challenged custody.

  The Tribe moved for judgment on the pleadings, arguing that Arocha had failed to demonstrate that he had exhausted his tribal remedies before filing the writ of habeas corpus. The court found, however, that Arocha, by filing a notice of appeal with the Blackfeet Tribal Court following his re-sentencing, had demonstrated exhaustion of his tribal remedies. The court also concluded that the petition stated a claim that was plausible on its face by noting that Arocha was absent for his initial trial and sentencing, that Arocha alleged ineffective assistance of counsel, and by disputing whether the tribal judge was properly qualified under 25 U.S.C. § 1302(c)(3) to impose a sentence of more than one year.
- **Relevant (2023) Deskbook Sections**: 4:11, 4:12